

– ? ?????????? ??? ?????????? ??????????, ?????????????????? ??? ??? J. Beeko, ?????????????????? ??? ??? R. Hill, barrister,

– ? ?????????? ??????????, ?????????????????? ??? ??? ?. Habiak ??? ?? L. Lozano Palacios, ?????????? ??? ?????????? ??? ??????, ????? ?????????? ??? ?????????? ??????????????, ?? ?????????????? ??? ?????????? ?????????? ??????????????,

????????? ??? ??????????

?????????

1 ? ?????? ?????????????????? ?????????????? ?????? ??? ?????????? ??? ?????????? 2006/112/?? ??? ??????????????, ??? 28?? ?????????????? 2006, ?????????? ?? ?? ?????? ?????????? ?????? ?????????????????? ?????? (?? L 347, ?. 1), ????? ?????????????????????? ?? ??? ?????????? 2009/162/?? ??? ??????????????, ??? 22?? ?????????????? 2009 (?? 2010, L 10, ?. 14, ??? ?????: ??????? ???).

2 ? ?????? ??? ? ?????????????? ??? ?????????? ?????????? ??????? ??? Minister Finansów (????????????? ??????????????) ??? ??? Wojskowa Agencja Mieszkaniowa w Warszawie (????????????????? ?????????????? ?????????? ??? ??????????, ??? ?????: Wojskowa Agencja Mieszkaniowa) ?????????? ?? ?????????? ?????????????????? ?????????? ??? ?????????? ?????????????????? ??? 21?? ?????????? 2011 ??? ?????????????????? ??? ?????? ?????????????????? ??? ?????????????? ??? ?????? ?????????????????????? ?????? (?? ?????: ???) ??? ?????? ?????????????? ? ?????????????? ?????? ?????? ?????? ??? ?????????????? ??? ?????????????? ??? ?????????? ??? ?????????????????? ??????????.

?? ??????? ??????????

?? ?????????? ??? ??????????

3 ?? ?????? 1, ?????????????? 2, ?????????? ?????????, ??? ?????????? ??? ?????????? ?? ?????:

«?? ?????? ??????, ? ???, ??? ?????????????????? ?????? ?????? ??? ?????????? ? ??? ?????????????? ?? ??? ?????????????????? ??? ?????????????????? ??? ?????????? ?????? ? ?????? ?????????????? ?????, ?????? ?????????????? ?????? ??? ?????????????? ??? ?????? ??? ?????? ? ?????????? ?????????????? ?????? ?? ?????????? ??? ?????????????? ?????????????? ?? ?????? ?????????????? ??? ??????»

4 ?? ?????? 14, ?????????????? 1, ??? ?????????? ??? ?????????? ?? ?????????????:

«?? “????????????? ?????????” ?????????????? ? ?????????????????? ??? ?????????????????? ?? ?????????????? ?????????, ?? ?????????, ?????????????? ??????»

5 ?????? ?? ?????? 15, ?????????????? 1, ??? ?? ?????? ??????????:

«????????????????????? ?? “????????????? ??????” ? ?????????????????? ??????????, ?? ??????, ? ??????????????, ?? ?????? ??? ?????????????? ??????»

6 ?? ?????? 24, ?????????????? 1, ??? ?? ??? ?????????? ?????? ?? ?????:

«?? “????????? ??????????????” ?????????? ?????? ?????? ? ?????? ??? ?????????????? ?????????????? ??????????»

7 ?? ?????? 73 ??? ?????????? ??? ?????????? ?? ?????????????:

«??? ??? ?????????????????? ?????????? ??? ??? ?????????? ??????????????, ?????? ?????? ??? ?????????????????? ??? ?????? 74 ??? 77, ? ?????? ?????????????? ??? ?????? ?????????????????? ?????????????? ?????????????? ???

??????????, ??? ????? ????? ? ?????????? ?? ????? ??? ??? ????????? ????? ? ?????????????? ?
? ????????? ??? ?????????? ??? ??? ??????????, ??? ????? ? ????? ?????????,
????????????????????? ??? ?????????????? ??? ?????????????? ????? ?? ??? ????? ??? ?????????
??????.»

?? ?????????? ??????

8 ?? ????? 7, ????????????? 1, ??? ????? ??? 11?? ????????? 2004 ????? ????? ??? ??????
??? ?????????? (Ustawa o podatku od towarów i usług, Dz. U ?????. 54, ????? 535) ??????? ??
?????:

«?? ?????????? ?????? ????? ?????????? ??? ?????? 5, ????????????? 1, ?????? 1, ????????? ?
????????????? ??? ?????????????? ?? ?????????? ?????????, ?? ??????, ?????????? ?????? [...].»

9 ?? ????? 8, ????????????? 1, ??? ????? ?????? ?????? ?????????????:

«?? “????????? ??????????” ????? ?? ????? 5, ????????????? 1, ?????? 1, ????????? ????? ?????? ???
????????????????????? ?? ?????????? ?????? ????? ?????? ? ?????? ????????? ? ?????? ??????
????????? ?????????????????, ? ?????? ??? ?????????? ?????????? ?????? ?????? ??? ?????? ??? ??????
7 [...].»

10 ?? ????? 29, ????????????? 1, ??? ?? ????? ?????? ?????? ?? ?????:

«????? ?????????? ??? ?????? ?????????? ? ?????? ??????????, ??? ??? ?????????????? ??? ?????? 2 ???
21, ??? ?????? 30 ??? 32, ??? ?????? 119, ?????? ??? ??? ?????? 120, ????????????? 4 ??? 5. ?
????????? ?????????? ?????????? ?? ?? ?????? ??? ?????????? ??? ??? ??????, ?? ??????????????????????
??? ?????????????????? ??????. ?? ?????????????? ?????? ?????????? ?? ?????? ??? ?????????? ??? ?????????
? ?????????? ? ?????? ??????????. ? ?????? ?????????? ?????????????????? ?????? ??? ??????????????????
????????????????, ?????????????????? ??? ?????? ?????????? ?????????????????????? ?????????? —?????
????? ?????????????????? ?? ?????? ??????—, ?? ?????? ?????????????? ?????? ??? ?????? (??
????????????? ?????) ??? ?????????????????? ?????? ??? ??? ?????????????? ?????????? ??? ???
????????????? ?????? ??????.»

? ?????????? ??? ?????????? ?????? ??? ?? ?????????????????? ?????????????

11 ? Wojskowa Agencja Mieszkaniowa ?????? ?????????? ?????? ?? ??????????, ?????? ??????,
??? ?????????? ?????????? ?????????? ??? ?????????? ?????? ?????????????? ????. ??? ?????????? ???
????????????????????? ?????? ?????????? ?????? ?????????? ?? ?????? ??? ?????????????? ? ?????? ???
????????? ??????????, ?????? ?????? ?????????????????????, ??????, ?????????? ??????????
????????????? ?????? ?????????, ?????? ? ?????? ?????????????? ??????????, ?????????????? ??? ??????,
????? ???, ?????????, ?????????? ?????????????? ?????????????????, ?????????????????? ?????? ??????????
?? ?????? ?? ?? ?????? ?????????????????? ??? ??? ?????? ??? ?? ??? ?????? ??? ?????????? ???
????????? ??????????????. ?????? ?????? ??? ?????????? ?????????????? ?????? ??????????, ? Wojskowa
Agencja Mieszkaniowa ?????????? ???? ?????????? ?????????????????????? ?????? ??? ?????? ?? ??????
????????????????? ??? ?????????? ?????????????, ?????????????????????? ??? ?????????? ?????? ?? ???
????????????? ?????????????? ??? ?????? ??? ?????????? ??? ??? ?????????? ?????????? ??????????, ???
????????? ??, ?????? ??? ?????? ??? ?????????????? ??????, ?????????? ?? ?????? ??????????????
??? ?????????????????? ?????? ?? ?????????? ?? ??? ?????????????? ?? ?????? ??? ??????????
????????????????? ?????????????? ?????????????, ?????????????? ??? ??????.

12 ?????????? ?????????? ??? ?????????????? ??? ??? ??? 1?? ?????????????? 2011, ? Wojskowa
Agencja Mieszkaniowa ?????????????? ?? ?????? ?????? ?????????????? ??? ?? ?????? ??
????????????????? ??? ??? ?????? ??? ?????????????????? ??? ?????????????? ?????? ??? ?????????????? ??????

Wojewódzki Sąd Administracyjny w Warszawie (II SA/Wa 1000/11), 11 października 2011 r., 22 % (II SA/Wa 1000/11).

13. Wojewódzki Sąd Administracyjny w Warszawie (II SA/Wa 1000/11), 11 października 2011 r., 22 % (II SA/Wa 1000/11).

14. Wojewódzki Sąd Administracyjny w Warszawie (II SA/Wa 1000/11), 11 października 2011 r., 22 % (II SA/Wa 1000/11).

15. Wojewódzki Sąd Administracyjny w Warszawie (II SA/Wa 1000/11), 11 października 2011 r., 22 % (II SA/Wa 1000/11).

16. Wojewódzki Sąd Administracyjny w Warszawie (II SA/Wa 1000/11), 11 października 2011 r., 22 % (II SA/Wa 1000/11).

17. Wojewódzki Sąd Administracyjny w Warszawie (II SA/Wa 1000/11), 11 października 2011 r., 22 % (II SA/Wa 1000/11).

18. Naczelny Sąd Administracyjny (I SA 1000/11), 11 października 2011 r., 22 % (I SA 1000/11).

19. Naczelny Sąd Administracyjny (I SA 1000/11), 11 października 2011 r., 22 % (I SA 1000/11).

20. Naczelny Sąd Administracyjny (I SA 1000/11), 11 października 2011 r., 22 % (I SA 1000/11).

«1) ?????? ?? ?????????? ??? ?????? 14, ?????????? 1, ??? ?????? 15, ?????????? 1, ???
??? ?????? 24 ?????????? 1, ??? ?????? ??? [...] ??? ?????? ??? ?????????? ??????
????????????, ?????????? ??? ?????? ?????? ?????? ?????????? ??????????
????????????? ??? ??? ?????????? ?????? ??? ?????? ?? ?????? ?????? ??? ?? ??? ?????? ???
????????? ?????? ?? ?? ?????? ?????? ?????????????? ??? ?? ?? ?????? ?????????? ?????????????? ???
????????????????????? ?????????? ?????????? ??? ?????? ? ?????????????? ?????? ?? ?????????????????? ?????? ???
????????????? ??????????, ? ?????? ?????????????? ?????? ?? ?????????? ?????????? ?????? ?????????? ??
????????????? ?????????? ??? ?? ?????? ?????????? ??? ?????????????;

2) ?? ?????????? ?????????????? ?????????????? ??? ?????? ?????????? ?????????? ?? ?????? ??????????
??? ?????? (??? ?????? ?????????? ?? ??????????) ?????? ??? ?????? ??? ?????? 73 ??? ?????????
[????] ?? ?????? ??? ?????????????? ??? ??? ?????????? ??? ?????????? ?????? ? ?????? ??????????????
????????????, ?????????????, ?????? ??? ? ?????????? ?????????????????? ??? ?????????? ??? ??????????
????????????? ?????????????? ? ?????????? ? ?????????????????????? ?????????? ?????????? ??? ?????????
????????????? ?????????? ?????????????? ??? ??? ?????????? ?????????????????? ??? ?????????? ??????;

??? ??? ?????????????????? ??????????????

??? ??? ?????????? ??????????????

21 ?? ?? ?????? ??? ?????????? ?? ?????? ?????????????? ?????? ?? ??????????????????, ???' ??????,
?? ?? ?????? 14, ?????????????? 1, 15, ?????????????? 1, ??? 24, ?????????????? 1, ??? ?????????? ???
????? ??? ?????? ???, ??? ?????????? ??? ?????????????? ??????????, ? ?????? ??????????????
?????????????, ?????????????? ??? ?????? ?????? ?????????????????? ??? ?????????? ??? ??????????
????????????? ?????????????? ? ?????????? ? ?????????????????????? ?????????? ?????????? ??? ?????????
????????????? ?????????? ?????????????? ??? ??? ?????????? ?????????????????? ??? ?????????? ??????
????? ??? ?????????? ??? ?????????????? ?????????????? ??? ??? ?????????? ?????????? ??? ? ?????? ??????
????????????? ?? ?????? ?????? ?????? ??????????

22 ?? ?????? ?????????????? ?????????? ?????????????? ??? ?????????? ?????????? ??????????????,
????????????????? ??????, ??????, ??? ?????????????? Auto Lease Holland (C?185/01, EU:C:2003:73), ?
????? ?????? ??? ?????????? ??? ?????? 5, ?????????????? 1, ??? ?????? ?????????? 77/388/??? ???
?????????????, ??? 17?? ?????? 1977, ???? ?????????????????? ??? ?????????????? ??? ?????? ??????,
??? ?????????? ?? ?????? ?????? ?????? ?????????? — ?????? ?????????? ?????? ??????????????????
?????: ?????????????? ?????????????? ?????? (?? ????. ????. 09/001, ? 49), ??? ?????? 14, ??????????????
1, ??? ?????????? ???.

23 ?????? ?? ??? ?????????, ??? ?????? ?????????? ?????????????????????? ?????????????? (leasing)
????????????? ?????????????? ?? ?????????????? ?????? ?????????? ??? ?????????? ?? ?????????????? ?? ?????? ??
????????? ??? ?????? ??? ??? ?????????????? ??? ?????????????? ??? ?????????? ??????, ?? ??????????????
????????? ?? ?????? ?? ?????? ?????? ??? ? ?????????????? ?????????????? ?? ?????????? ?????????? ??????
????????? ??? ?? ?????? ??????????

24 ?? ?????????????? ?????????? ??????????, ?????????????????????? ???, ???? ?? ?????? 5, ??????????????
1, ??? ?????????? 77/388, «?? “????????? ??????” ?????????? ? ?????????????? ??? ?????????? ??
????????? ?????? ?????????? ?????? ?? ??????» . ?? ?????????????? ?????????????? ??? ? ?????? ???
????????????? ?????? ?????????????????? ?????? ?????? ?????????????????? ?????????????? ?????? ???
????????????????? ? ?????? ?????????????????? ??? ?????????????????????? ??? ?? ?????????? ?????? ??????
?? ?? ?????? ?????? ?? ??????. ?????? ??? ?? ?????????? ?????????? ?????????????? ??????????????
????? ?????????? ??? ?????????? ?? ?????????? ?? ??????????, ?????? ??????, ?? ?????????? ?? ??????
??? ??? ??? ?????????? ?????????? ?????????? ??? ??? ?????????? ?????? ?????? ?????????? ???
????????? ?????, ?????? ??????????, ??? ??? ?????????????? ?????? ?????????? ??? ?????????? (?????????)

Auto Lease Holland, C-185/01, EU:C:2003:73, ¶¶ 31-36).

25. The Court has held that the fact that a company is a subsidiary of another company does not prevent it from being a separate legal entity. In the present case, the fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity. The fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity.

26. The Court has held that the fact that a company is a subsidiary of another company does not prevent it from being a separate legal entity. In the present case, the fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity. The fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity. (Auto Lease Holland, C-185/01, EU:C:2003:73, ¶¶ 31-36).

27. The Court has held that the fact that a company is a subsidiary of another company does not prevent it from being a separate legal entity. In the present case, the fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity. The fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity. (Auto Lease Holland, C-185/01, EU:C:2003:73), ¶¶ 14, 15, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.

28. The Court has held that the fact that a company is a subsidiary of another company does not prevent it from being a separate legal entity. In the present case, the fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity. The fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity.

¶¶ 31-36

29. The Court has held that the fact that a company is a subsidiary of another company does not prevent it from being a separate legal entity. In the present case, the fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity. The fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity.

30. The Court has held that the fact that a company is a subsidiary of another company does not prevent it from being a separate legal entity. In the present case, the fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity. The fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity. (Field Fisher Waterhouse, C-392/11, EU:C:2012:597, ¶¶ 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29).

31. The Court has held that the fact that a company is a subsidiary of another company does not prevent it from being a separate legal entity. In the present case, the fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity. The fact that the company is a subsidiary of another company does not prevent it from being a separate legal entity.

????????????, ?????? ?????????? ??????????, ?? ?????? ?? ?????????? ?? ?????????????
????????? ??, ?? ?? ??????, ?? ?????????????? ? ?? ?????????? ??? ??? ??????????,
?????? ?? ?????????? ?? ?????? ?????? ?? ?? ?????? ?????????????? ?????? ?????. ??????
????? ?????????? ?????? ?????? ? ?????????????? ?????????? ? ?????????? ??? ?????????? ???
????????????? ?? ?? ?????????????? ?????? ?????? ?????????? ?????????????? ?????? ?????? ?????? ??????
????? ?????????????????? ?? ?????????? ?????? ?? ?????????????? ?????????????? ??????, ??? ?????? ?
????????? ?? ?????? ?????????. ?????? ?????????? ?????? ?????? ?????????? ?? ?? ? ??????????????
????????? ?????? ?? ?????????? ?? ? ?????? ??????, ???, ?????????????, ??? ? ??????????????
????????? ?????? ?? ?????????? ?? ?? ? ?????????????? ?????????????? ?????????, ?? ??????,
?? ?????????? ?????????????, ?????????????? ?? ?????? ?? ?????? ?????????? (????????? BG? Leasing,
C?224/11, EU:C:2013:15, ?????? 30). ?????????????, ??? ?????? ?????? ?? ?????????? ??
????????????? ?????? ?????? ?????????? ?????????? ?????? ?????? ?????????, ?????
?? ?????? ?????????????? ?? ?????? ?????????????? ??? ?? ?????????????? ?????????? ? ?????? ??????????
(????????? Field Fisher Waterhouse, C?392/11, EU:C:2012:597, ?????? 17 ??? ?????
????????????????? ?????????????).

32 ?????????????? ?? ?????? ?? ?? ?????????????? ?????????? ?????????? ??????????????
????????????????? ?????????? ? ?????????? ??????, ?????? ?? ?????????????????? ?? ??????????????????
????????? ?? ?????????? ?????????? (????????? BG? Leasing, C?224/11, EU:C:2013:15, ?????? 32).

33 ??? ???? ???? ?????? ?????? ?? ?????????????? ?????????????????? ?? ?????????? ?????? ??????
??? ?????? ?????, ?? ?????????????? ?????? ?? ?????? ?? ?????? ?? ?????????????????? ?????
????????? ?????? ?? ?????????????? ?? ??????????????????

34 ??? ?????????? RLRE Tellmer Property (C?572/07, EU:C:2009:365), ?? ?????????????? ??????
??, ??? ?????? ?? ?????????? ?? ?????????????????? ?????? ??????????, ? ?????????? ??????????
????????? ?? ?????????????????????? ?? ?????????? ?????????, ??????, ?????, ?? ?????? ? ??????
????????? ?? ?????? ?? ?????????????? ?????? ?????????????? ?????? ?????????? ? ?? ?? ?????????????? ?
????????? ?????????????????? ?????? ?????? ?? ?????????????? ? ?????????????? ?? ??????????????
?????????????. ?? ?????????????, ?????????????? ?? ? ?????????? ?????? ?????????????? ?? ?? ?????????????
????????? ?? ?? ?????????????? ?? ?? ?? ?????????? ?????????? ?? ?????????????????? ?????? ?????, ??
????????????????? ?????? ?? ?????? ?? ?????????? ?? ?????????????? ?? ?????????????? ?????? ??????
(????????? RLRE Tellmer Property, C?572/07, EU:C:2009:365, ?????????? 22 ??? 24).

35 ??? ?????????? Field Fisher Waterhouse (C?392/11, EU:C:2012:597) ?? ??????????????
????????? ?? ?? ?????????????????? ?? ?????????????? ?????????? ?????? ?? ?????????? ?????????????
????????? ??????????. ?????????????? ??, ?? ??????????????, ?????????? ?????????? ?????????? ?? ??????????
?????? ?????????? ?? ?????????????? ?????????, ?? ?????????????? ?????????????????? ??, ??? ????
????????????????? ?? ?????????, ? ?????????? ?????? ?????? ??, ?????????? ?? ?????????????????? ??
????????????? ??????, ? ?????????????? ?????? ?? ?????????? ?????? ?????????? ?????????????
????????????? ?? ?? ?????????? ? ?????????????? ?????????????? ??????????, ? ?? ?????????? ?? ??????
????????????? ?? ?????? ?? ?????????????? ?? ?????????????? ?? ??????????????. ?? ?????????????? ?????????? ??
? ?????????????????? ?????? ?? ?????????????? ?? ?? ?????? ?????????????? ?? ?????? ?????? ? ?????? ??
????????????????? ?????????? ?? ?????????????? ?????????????? ??????, ?????? ?? ? ?????? ?????? ?????????? ?????
????????? ??????????????. ?? ?????????????? ?????????????? ?? ?????????? ?????????????? ??????????
????????? ??????, ? ?????? ?????????????????????? ?????? ?? ?????????????? ?? ?? ??????????. ??
????????? ?? ?????????????? ?? ?? ?????????????? ?????? ?????? ?????? ?? ?????? ?? ?????? ??????????
?? ?????????? ?????????????? ??????, ?????? ?????????????????? ?????????? (????????? Field Fisher
Waterhouse, C?392/11, EU:C:2012:597, ?????? 23).

36 ?????? ?? ?????????????? ?? ?? ?? ?? ?? ?????????????? ?????????? ?????????? ?? ??????, ?????
?? ?????? ?? ?????????? ??????, ?????? ?????? ??????????, ? ?????? ?? ??????????????, ?? ?? ??????

??? ?????????????????? ??????????. ??? ?? ??????????? ????? ?????????? ??? ?? ?? ????? ?????????
????????? ?? ?????????????? ?????????????? ??? ??????????? ??????????. ??????????, ?????????? ???
?????????? ??????????????, ?????? ??????????? ??? ?????? ??? ?????????? ???????????, ?????????? ??
????????????? ?????????????????? ?????????? ? ?? ?????????????? ?????????????????? ?? ?? ?????????? ??? ??
????????????? ??????? ??????? ?????? ?? ??????

37 ??? ??? ?????????? BG? Leasing (C?224/11, EU:C:2013:15, ????????? 44 ??? 45) ???????????
????????? ?????? ??? ?? ??????????? ?? ?????? ?????????????? ?????????? ??? ?????????????????? ???
????????????????????? ??????, ?????, ??? ??????????????, ? ??????? ?????????????????? ??? ??????????,
????????? ?? ?????????????????? ?????? ?????? ?????????????????????? ??? ?????????????????????? ??? ??????????
?????????. ??????? ?????? ?? ?????????????????????? ??, ?????? ?? ??????????, ? ??????????? ??? ?
?????????????? ?????????????? ?????????????? ?? ?????????? ??? ?? ??????????????, ??????????????????, ??????????
?????????????? ?????????????? ?? ?????????????????? ??????? ?????????????????? ?? ?????? ??????????, ?????? ??? ??
?????? ??????? ?????????????? ??? ?? ?????????????????????? ??? ?????????? ?????????.

38 ?????, ??????? ?? ?????????????????? ?????? ?? ?????????????? ??????????????????, ??? ??????????? ??
????????????????? ?????????????????? ??? ?????????? ??????????????????

39 ??????, ?? ? ?????????????? ?????? ?? ??????????????? ?? ?????????????? ?????? ?????????????????? ???
????????????? ?????????????? ?/???? ?????? ?????? ?????????????????????????? ??? ?????????? ? ??? ?????????????? ??????,
????? ?? ?????????? ??? ?????????? ?? ?? ??? ?????? ? ?????????????? ?????????? ??????????? ??
????????????????? ?? ?????????????? ??? ?? ??????????. ??????????????, ?? ? ?????????????? ?????????? ??
????????????????? ?????????? ?? ??? ?? ?????????? ??? ?????????????????? ??????, ?????????????????? ?????????????? ?
?????????????????, ??? ?????????? ?? ?????????????????????? ?? ?????????????????? ?????????? ??? ?? ??????????????? ??
????????????????? ?? ??? ?????????????????????? ??????????????????, ?? ?????????? ??? ?????????? ?? ?????????? ?????? ?
????????????????? ?????????? ?????????????? ?? ?????????????????? ?? ?????????????????? ?????? ?? ??????????. ?????? ??????
????????????????? ?????? ? ?????????????????? ??? ?????????????????????? ?????? ?????????????? ?????????????????????? ??
????????????????? ??????????????????, ?????? ?????????? ?? ?????????????????? ?? ?????????????????? ??? ?? ?????????? ??
?????????? ?? ?????????????????? ??? ?????? ?????????? ?????????? ? ??? ?????? ?????????????? ?????????????? ???, ??
????? ??????????????, ?? ?? ?????????????????????? ?????? ?????????? ?????????????????????? ?????????????? ??????????????
???? ?????????? ??? ?????????????? ?????????? ??? ?????????????????? ?????????? ??? ?? ??????????

40 ????? ?????????????? ?????, ?????? ??? ?????? ?? ?????????? ??? ? ?? ?????????????? ??? ???????????????
????????????????????? ?????????? ?????? ?????????????? ?? ?????????????????? ?? ?????????????????? ?? ??????????
????????????????? ?????????? ?????????????? ?? ?????????????????? ?? ?????? ?????????????????? ??? ?? ?????????? ??
?????????? ?? ??? ?????????? ?????????????????? ?? ?????????????????????? ?????? (??., ??' ??????, ?????????? BG?
Leasing, C?224/11, EU:C:2013:15, ?????? 47).

41 ??????????, ?????? ? ?????????????? ?????? ??? ?????? ? ?????????????? ?????? ?? ?????????????????? ??
????????????? ? ?????? ?????????????? ??? ?????????????? ??? ?????????????? ?????????????? ?????? ?????????????????????
????????????? ??????????, ?????????????? ??? ? ?????????????????? ?? ??????????????????, ??? ?????? ??????????????????,
????????????????? ?? ?????????????? ?????????? ?????????? ?????? ?????????? ?????? ?????????? ??? ??????????
????????????? ?????????? (????????? Field Fisher Waterhouse, C?392/11, EU:C:2012:597, ?????? 26).

42 ??????????, ?? ??? ?????????????????????? ?????????? ?????????? ??????????????????????, ??? ??????????????????
?????????, ??? ?????????? ?????? ?? ??? ?????????? ??? ?? ?????????????????, ?? ?????????? ?????? ?????????? ??
????????????????? ?? ?????????????????? ??? ?????????? ?????????? ?????? ?? ?? ??????????. ?????? ?????????? ??
????????????????? ?????? ?????????????????? ?????? ?????????????????? ?????????????? ?? ?????? ??? ?????????????? ??? ??
????????????????? ?????? ?????????????????, ?? ?????? ?????? ?????????? ?? ??????????????????????????, ??????????????????????????
????? ?????????????????? ?????????? ?????????????? ??? ?????????????????? ?????? ??????????, ??? ?????????????????? ??????
????????????????????? ?????????????? ??? ?????? ?????????? ??????????????, ?????? ??? ?????????? ?????????????? ? ???
????????????????????????? ?????????, ?????? ?? ?????????????????????? ?????????? ?????????????????? ?????? ??????????
????????????????????????????? ??? ?? ??? ??????????, ?????? ?????? ?? ?????????? ?? ?????????????????? ?????? ??

— ?????????? ?? ?????? ?????????? ?? ?????? ??? ?????????? ??????????,
????????????? ?????? ?? ?????? ??? ?????????????? ??? ?????????? ??? ?????? ?????????????? ?
????????? ??? ?? ?????????? ??? ?? ?????????????? ???, ??????????????, ?? ?????????????? ??? ??????
?????????????

??? ??? ?????????????? ???????

48 ?????????? ??? ? ?????????? ?????????????? ?????? ?? ?????? ?????? ?????????????? ??? ?????????? ??????
??? ?????????????? ?????????????????? ??? ?????????? ?????????? ??? ?????????????? ?????????????????, ?' ???
????????????????? ?? ?????????????? ??? ??? ?????????????????? ?????????? ?? ?????? ??? ?????? ?????????????????
????? ?????????????? ?????????????????? ??? ??????????????, ?????? ??? ?? ??? ??????????????, ??? ??????????????????

??? ?????? ?????????? ?????????, ?? ?????????????? (?????? ??????) ??????????????:

1) ?? ?????? 14, ?????????????? 1, 15, ?????????????? 1, ??? 24, ?????????????? 1, ??? ??????????
2006/112/?? ??? ??????????????, ??? 28?? ?????????????? 2006, ?????????? ?? ?? ?????? ??????????
?????? ?????????????????? ??????, ?????? ?????????????????? ?? ??? ?????????? 2009/162/?? ???
????????????????, ??? 22?? ?????????????? 2009, ?????? ??? ?????? ???, ??? ?????????? ???
????????????? ?????????????, ? ?????????? ?????????????? ?????????????, ?????????????? ??? ?????? ??????
???? ? ?????????????? ?????????????????, ?????????? ?????? ?????????? ?????????????? ?????????? ??????
????? ?????????? ??? ?????????? ??? ?????????????????? ?????????????? ?? ?? ??? ?????? ???
?????????????, ?????????? ?? ?????????????? ?? ?????????????????????????????? ??? ??? ?????????????? ?????
?????? ?????? ?????????? ??? ?????????????? ?????????????? ??? ??? ?????????? ?????? ??? ? ??????
?????? ?????????????? ?? ?????????? ?????? ?????? ??????????

2) ? ?????????? ?????? ?????? ??? ?????????? ??? ? ?????????? ?????????????? ??? ? ?????????? ??????,
????????????????? ?????????????? ??? ?????????????????? ?????? ??? ?????????????? ??????????????
????????????????????, ??? ?????????????? ?? ?????????? ??????, ?????????? ?? ??????????????, ??????????,
?? ?????????????? ??? ?????????????????? ?????????? ?? ?????????? ?????????? ?? ?????????????? ??????????
???? ?????????? ???, ?????? ?? ?? ?????????? ??? ?????????? ??????????, ??????????????????????
????????????? ??? ?????????????? ??? ?????????????????? ?????? ??? ?????????????? ??? ?????????????,
????????????????? ?????? ?????? ?????????? ?????? ?????? ?? ??????????????, ?????????????????????, ??? ?????
????????????????? ?????????????????? ?????????, ??? ?????????? ? ?????????????? ?? ?????? ??????????

????????????????? ??? ?????????? ?????????????????? ?? ?????????? ?????? ?????????????? ??????????????,
????????????????? ?????????? ?? ?????????? ??? ?????????????????? ??? ?????????? ??? ??????????
????????????????? ? ?????????? ??? ?? ?????????? ??? ?? ?????????????????? ???, ?????????????????, ??
????????????????? ??? ?????????? ??????????????

(?????????????)

* ?????????? ??????????????????: ? ??????????????